

REMARKS

Claims 1-18 are pending in this application. None have been allowed. Claims 5, 9, 12 and 13 (other than compound 3) are objected to, but are "seen as patentable over the closest prior art..."

At page 1 of the Action, the Examiner indicates that the Action is Non-final. At page 14 of the Action the Examiner indicates that the Action is made final. On July 11, 2007 the undersigned attorney called the Examiner about this and confirmed that the Action is non-final.

On March 23, 2007 the Examiner called regarding a Restriction Requirement. The two groups are memorialized at page 3 of the present Action:

Group I: Claims 1-18, drawn to pyrimidopyridines of Formula I, in which A is N; D is C; E is NH; and pharmaceutical compositions thereof and therapeutic methods using compounds of Group I.

Group II: Claims 1, 2 and 14-18, drawn to Formula I compounds not provided for in Group I and pharmaceutical compositions and methods of using these compounds.

At this time the undersigned attorney affirms his election of Group I. In addition, applicants have amended the claims consistent with this election. Applicants respectfully submit that the amendments add no new matter and are supported by the original claims.

Bridging pages 4 and 5 of the Action, the Examiner rejects Claim 13 on the basis that "Compound 3" (which is Example 3 found at pages 31 and 32 of the application), is not enabled. Examiner 3 does not fall within Formula I. It is the Examiner's view that as a consequence, "...the specification does not teach have to make and use Compound 3."

Applicants respectfully traverse. The Claims begin with the phrase: WHAT IS CLAIMED IS:" It is thus clear that applicants regard all of the subject matter claimed (and in particular the compounds claims) as part of their invention. Moreover, claim 13 begins with the phrase "The compound of Formula I". Thus, applicants conceived Example 3 as not only being a compound of the invention, but also a compound falling within Claim 1. Finally at page 24 of the specification, beginning at approximately at line 3, the specification states that

"The compounds of the invention demonstrated efficacy in the above assays by results of less than 10 μ M." For all of these reasons, applicants traverse.

Bridging pages 12 and 13, the Examiner emphasizes that she has only examined compounds of Formula I, Group I. and has asked other matter to be canceled. Thus, despite the above traverse, in order to advance the prosecution of this case, applicants have canceled Example 3 from Claim 13. Note that applicants have used brackets to "delete" Compound 3.

Beginning at page 5 of the Action and ending at page 12, the Examiner rejects method claims 15 to 18 for lack of enablement. In order to advance the prosecution of this application, applicants have canceled claims 15 to 18. Applicants make no admission with regard to this rejection, and specifically reserve the right to prosecute canceled or unclaimed subject matter in a continuing or divisional application.

In the middle of page 12 of the Action the Examiner rejected claim 3 under 35 USC 112, second paragraph, as being indefinite. The Examiner states: "Claim 3 defines "D is C" which would require that the bond between D and E would be a double bond, while E is defined as NH, which would require that the bond between D and E would be a single bond. This is an impossible situation. Correction is required."


Applicants respectfully submit that their amendments to the claims render this issue
-----moot.

Finally, applicants note that the Action does not mention Claims 4, 6-8, or 10-11. Applicants respectfully submit that their amendments place these claims in condition for allowance.

Having addressed all of the outstanding objections and rejections, applicants respectfully submit that the application is in condition for allowance and passage thereto is earnestly requested.

The Examiner is invited to contact the undersigned attorney at the telephone number provided below if such would advance the prosecution of the application.

Respectfully submitted,

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